

## § 39.401

## 25 CFR Ch. I (4–1–08 Edition)

### § 39.401 What is the purpose of this subpart?

The purpose of this subpart is to ensure accountability of administrative officials by creating procedures that are systematic and can be verified by a random independent outside auditing procedures. These procedures will ensure the equitable distribution of funds among schools.

### § 39.402 What definitions apply to terms used in this subpart?

*Administrative officials* means any persons responsible for managing and operating a school, including the school supervisor, the chief school administrator, tribal officials, Education Line Officers, and the Director, OIEP.

*Director* means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs.

*Education Line Officer* means the Bureau official in charge of Bureau education programs and functions in an Agency who reports to the Director.

### § 39.403 What certification is required?

(a) Each school must maintain an individual file on each student receiving basic educational and supplemental services. The file must contain written documentation of the following:

- (1) Each student's eligibility and attendance records;
- (2) A complete listing of all supplemental services provided, including all necessary documentation required by statute and regulations (*e.g.*, a current and complete Individual Education Plan for each student receiving supplemental services); and
- (3) Documentation of expenditures and program delivery for student transportation to and from school provided by commercial carriers.

(b) The School must maintain the following files in a central location:

- (1) The school's ADM and supplemental program counts and residential count;
- (2) Transportation related documentation, such as school bus mileage, bus routes;
- (3) A list of students transported to and from school;
- (4) An electronic student count program or database;
- (5) Class record books;

(6) Supplemental program class record books;

(7) For residential programs, residential student attendance documentation;

(8) Evidence of teacher certification; and

(9) The school's accreditation certificate.

(c) The Director must maintain a record of required certifications for ELOs, specialists, and school superintendents in a central location.

### § 39.404 What is the certification and verification process?

(a) Each school must:

(1) Certify that the files required by § 39.403 are complete and accurate; and

(2) Compile a student roster that includes a complete list of all students by grade, days of attendance, and supplemental services.

(b) The chief school administrator and the president of the school board are responsible for certifying the school's ADM and residential count is true and accurate to the best of their knowledge or belief and is supported by appropriate documentation.

(c) OIEP's education line officer (ELO) will annually review the following to verify that the information is true and accurate and is supported by program documentation:

- (1) The eligibility of every student;
- (2) The school's ADM and supplemental program counts and residential count;
- (3) Evidence of accreditation;
- (4) Documentation for all provided basic and supplemental services, including all necessary documentation required by statute and regulations (*e.g.*, a current and complete Individual Education Plan for each student receiving supplemental services); and
- (5) Documentation required by subpart G of this part for student transportation to and from school provided by commercial carriers.

### § 39.405 How will verifications be conducted?

The eligibility of every student shall be verified. The ELO will take a random sampling of five days with a minimum of one day per grading period to verify the information in § 39.404(c).

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The ELO will verify the count for the count period and verify residency during the remainder of the year.

### **§ 39.406 What documentation must the school maintain for additional services it provides?**

Every school must maintain a file on each student receiving additional services. (Additional services include homebound services, institutional services, distance courses, Internet courses or college services.) The school must certify, and its records must show, that:

(a) Each homebound or institutionalized student is receiving 5 contact hours each week by certified educational personnel;

(b) Each student taking college, distance or internet courses is in physical attendance at the school for at least 3 certified contact hours per day.

### **§ 39.407 How long must a school maintain records?**

The responsible administrative official for each school must maintain records relating to ISEP, supplemental services, and transportation-related expenditures. The official must maintain these records in appropriate retrievable storage for at least the four years prior to the current school year, unless Federal records retention schedules require a longer period.

### **§ 39.408 What are the responsibilities of administrative officials?**

Administrative officials have the following responsibilities:

(a) Applying the appropriate standards in this part for classifying and counting ISEP eligible Indian students at the school for formula funding purposes;

(b) Accounting for and reporting student transportation expenditures;

(c) Providing training and supervision to ensure that appropriate standards are adhered to in counting students and accounting for student transportation expenditures;

(d) Submitting all reports and data on a timely basis; and

(e) Taking appropriate disciplinary action for failure to comply with requirements of this part.

### **§ 39.409 How does the OIEP Director ensure accountability?**

(a) The Director of OIEP must ensure accountability in student counts and student transportation by doing all of the following:

(1) Conducting annual independent and random field audits of the processes and reports of at least one school per OIEP line office to ascertain the accuracy of Bureau line officers' reviews;

(2) Hearing and making decisions on appeals from school officials;

(3) Reviewing reports to ensure that standards and policies are applied consistently, education line officers treat schools fairly and equitably, and the Bureau takes appropriate administrative action for failure to follow this part; and

(4) Reporting the results of the findings and determinations under this section to the appropriate tribal governing body.

(b) The purpose of the audit required by paragraph (a)(1) of this section is to ensure that the procedures outlined in these regulations are implemented. To conduct the audit required by paragraph (a)(1) of this section, OIEP will select an independent audit firm that will:

(1) Select a statistically valid audit sample of recent student counts and student transportation reports; and

(2) Analyze these reports to determine adherence to the requirements of this part and accuracy in reporting.

### **§ 39.410 What qualifications must an audit firm meet to be considered for auditing ISEP administration?**

To be considered for auditing ISEP administration under this subpart, an independent audit firm must:

(a) Be a licensed Certified Public Accountant Firm that meets all requirements for conducting audits under the Federal Single Audit Act;

(b) Not be under investigation or sanction for violation of professional audit standards or ethics;

(c) Certify that it has conducted a conflict of interests check and that no conflict exists; and

(d) Be selected through a competitive bidding process.